

JURISDICTION OVER PRIZES

Exchange of notes at London October 1 and November 3, 1942
Reciprocity proclaimed by the President of the United States January 30,
*1943*¹

Entered into force January 30, 1943
Expired at conclusion of World War II

58 Stat. 1207; Executive Agreement Series 393

The American Embassy to the British Foreign Office

EMBASSY OF THE
UNITED STATES OF AMERICA
London, October 1, 1942

MY DEAR WARD,

With reference to your letter of March 18, 1942 (No. W 2555/247/49), to Shantz concerning the proposed legislation to enlarge the jurisdiction of the United States Courts in certain cases of prize, I wish to inform you that Public Law 704—77th Congress, enacted to facilitate the disposition of prizes captured by the United States during the present war, and for other purposes, was approved on August 18, 1942. A copy of the Act is enclosed.²

This Act, it will be noted, relates only to prizes captured during the present war.

The special prize commissioners which the district courts of the United States are authorized to appoint may exercise abroad the duties which are prescribed by Law for such commissioners and such additional duties as the district courts may confer on them for carrying out the purposes of the Act. The duties of prize commissioners are set out in Title 34 U.S.C. Section 1138 which reads as follows:

“§ 1138. Duties of prize commissioners. The prize commissioners, or one of them, shall receive from the prize master the documents and papers, and inventory thereof, and shall take the affidavit of the prize master required by section 1134 of this title, and shall forthwith take the testimony of the witnesses sent in, separate from each other, on interrogatories prescribed by the court, in the manner usual in prize courts; and the witnesses shall not be permitted to see the interrogatories, documents, or papers, or to consult

¹ 57 Stat. 729.

² See 56 Stat. 746.

with counsel, or with any persons interested without special authority from the court; and witnesses who have the rights of neutrals shall be discharged as soon as practicable. The prize commissioners shall also take depositions de bene esse of the prize crew and others, at the request of the district attorney, on interrogatories prescribed by the court. They shall also, as soon as any prize property comes within the district for adjudication, examine the same, and make an inventory thereof, founded on an actual examination, and report to the court whether any part of it is in a condition requiring immediate sale for the interests of all parties, and notify the district attorney thereof; and if it be necessary to the examination or making of the inventory that the cargo be unladen, they shall apply to the court for an order to the marshal to unlade the same, and shall, from time to time, report to the court anything relating to the condition of the property, or its custody or disposal, which may require any action by the court, but the custody of the property shall be in the marshal only. They shall also seasonably return into court, sealed and secured from inspection, the documents and papers which shall come to their hands, duly scheduled and numbered, and the other preparatory evidence, and the evidence taken de bene esse, and their own inventory of the prize property; and if the captured vessel, or any of its cargo or stores, are such as in their judgment may be useful to the United States in war, they shall report the same to the Secretary of the Navy."

Upon the receipt from your Government of the consent required by Section 3 of the Act, the Government of the United States will take appropriate measures in accordance with Section 7 of the Act to confer reciprocal privileges with respect to prizes upon your Government.

Yours sincerely,

W. J. GALLMAN

Enclosure-cited.

J. G. WARD, Esquire,
Foreign Office, London.

The Secretary of State for Foreign Affairs to the American Ambassador

FOREIGN OFFICE, S.W. 1.

3rd November, 1942

No. W 13225/279/49.

YOUR EXCELLENCY,

At the request of the United States Government, consideration has been given by His Majesty's Government in the United Kingdom to the position in regard to prizes taken by United States naval forces in foreign waters far removed from a United States port and taken into a British port.

2. I have the honour to inform you that His Majesty's Government in the United Kingdom have taken note that Section 1 of Public Law 704—77th

Congress, which relates only to prizes captured during the present war provides that:

"the district courts shall have original jurisdiction of all prizes captured during the present war on the high seas if said capture was made by authority of the United States or was adopted and ratified by the President of the United States and the prize was brought into the territorial waters of a cobelligerent or was taken or appropriated for the use of the United States on the high seas or in such territorial waters, including jurisdiction of all proceedings for the condemnation of such property taken as prize".

3. His Majesty's Government in the United Kingdom have also taken note that Section 3 of the same Law provides that:

"the jurisdiction of prizes brought into the territorial waters of a cobelligerent shall not be exercised under authority of this Act, nor shall prizes be taken or appropriated within such territorial waters for the use of the United States, unless the government having jurisdiction over such territorial waters consents to the exercise of such jurisdiction or to such taking or appropriation."

4. I should be grateful if Your Excellency would be so kind as to acquaint your government that His Majesty's Government in the United Kingdom hereby give the consent referred to in Section 3 above quoted in respect of the United Kingdom and Sierra Leone.

5. His Majesty's Government in the United Kingdom have been glad to observe that the government of the United States is ready to take appropriate measures, in accordance with Section 7 of the Act, to confer upon them reciprocal facilities with respect to prizes.

I have the honour to be, with the highest consideration,
Your Excellency's obedient Servant,

(For the Secretary of State)

C. E. STEEL

His Excellency

The Honourable

JOHN GILBERT WINANT,

etc., etc., etc.,

*1 Grosvenor Square,
W. 1.*